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## H.R. 1883 - Iran Nonproliferation Act of 1999

Calendar No. 375

Read the second time and placed on the Senate Calendar on November 3, 1999.

### NOTEWORTHY

- It is likely the Senate will consider H.R. 1883, the Iran Nonproliferation Act of 1999, sometime during the week of February 21, 2000. The House passed H.R. 1883 on September 14, 1999, by a vote of 419-0.
- H.R. 1883 requires the President to submit bi-annual reports to the Congress, identifying every foreign person who transfers to Iran goods, services, or technology listed on respective control lists, or items with the potential to make a material contribution to Iran's development of nuclear, biological, or chemical weapons, or ballistic or cruise missile systems.
- The bill would make payments to Russian entities for certain goods or services related to the International Space Station contingent upon Presidential determination that Russia is complying with the nonproliferation policies outlined in the bill.
- The purpose of the legislation is to reverse the very dangerous proliferation problem, whereby firms in Russia, China, North Korea, and elsewhere are transferring to Iran items that will assist in its development of weapons of mass destruction and missiles capable of delivering such weapons.
- In 1998, the President vetoed H.R. 2709, a bill similar to the current legislation. However, H.R. 1883 contains many important improvements and takes into account many of the Administration's objections to the previous bill. For instance, H.R. 1883 is not a mandatory sanctions bill: it applies principally to the transfer of goods, services, and technology that appear on official control lists. The Administration opposes H.R. 1883, claiming the legislation will "weaken the U.S. ability to persuade the international community to halt such transfers to Iran."

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## HIGHLIGHTS

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- H.R. 1883 requires the President to submit bi-annual reports to the Senate Foreign Relations Committee and to the House International Relations Committee, identifying every foreign person who, on or after January 1, 1999, transfers to Iran goods, services, or technology listed on respective control lists, or items with the potential to make a material contribution to Iran's development of nuclear, biological, or chemical weapons, or ballistic or cruise missile systems.
- For those persons identified, the President may apply any or all of a number of measures including: refusal by the U.S. Government to procure from, or provide assistance to, that foreign person; refusal to sell to that person any item on the U.S. Munitions List, and to terminate sales of any defense articles, defense services, or design and construction services under the Arms Export Control Act; to deny licenses and suspend existing licenses for the transfer to that person items under the Export Administration Act of 1979 or the Export Administrative Regulations.
- H.R. 1883 contains many important improvements over the bill President Clinton vetoed in 1998. H.R. 1883 is not a mandatory sanctions bill. It applies principally to the transfer of goods, services, and technology that appear on official control lists of the multilateral nonproliferation regimes. It contains exceptions for transfers that were made unknowingly, that did not contribute materially to Iran's weapons programs, that were consistent with existing multilateral regimes, and where the transferring entity is subject to meaningful penalties. In addition, it seeks to create new incentives for the Russian Space Agency to help stem the proliferation of weapons technology to Iran.

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## BACKGROUND

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One of the most serious threats to U.S. national security arises from the continued transfer to Iran of goods, services, and technology relevant to the development of weapons of mass destruction, and ballistic and cruise missile systems capable of delivering such weapons. This issue was addressed by the Congress during the 105<sup>th</sup> Congress in the form of H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997. The House unanimously passed the bill on November 12, 1997, and the Senate amended it and passed it on May 22, 1998, by a vote of 90-4. President Clinton vetoed that bill on June 23, 1998.

On July 15, 1998, shortly before a possible vote in the House of Representatives to override the President's veto, the Vice President announced that the United States would impose sanctions on seven Russian entities that were subject to "special investigations" by the Russian government for possibly transferring weapons technology to Iran. While the Russian government

stated that these "special investigations" failed to uncover any evidence of misconduct by all but two entities, the U.S. sanctions on all seven entities remain in effect. The Administration pleaded with the House of Representatives to not override its veto, offering assurances that additional time would allow the problem to be resolved diplomatically.

Then, in January 1999, the Clinton Administration announced that U.S. sanctions would be imposed on three additional Russian entities for making material contributions to Iran's nuclear weapons and missile programs. Despite all of these efforts, entities in Russia and elsewhere have continued to transfer dangerous weapons technology to Iran without significant interruption. To address this continuing problem, H.R. 1883 was drafted to provide the Administration with additional tools to stem this proliferation.

The Iran Nonproliferation Act of 1999 takes into account some of the Administration's concerns regarding the previous legislation, H.R. 2709. For instance, the current legislation is not a mandatory sanctions bill. It applies principally to transfers of goods, services, and technology that appear on the official control lists of the multilateral nonproliferation regimes. It contains exceptions for transfers that were made unknowingly, that did not contribute materially to Iran's weapons programs that were consistent with existing multilateral regimes, and where the transferring entity is subject to meaningful penalties.

This bill, however, is broader than the previous bill since it applies not only to transfers of missile technology, but also to transfers of technology that have the potential of making a material contribution to the development of nuclear, chemical, biological, and certain advanced conventional weapons. In addition, it seeks to create new incentives for the Russian Space Agency to cooperate in efforts to stem the proliferation of weapons technology to Iran by making payments to Russian entities for goods and services related to the International Space Station contingent upon Presidential determinations that Russia is complying with the nonproliferation policies outlined in the bill.

The House passed H.R. 1883 on September 14, 1999, by a vote of 419-0.

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## **BILL PROVISIONS**

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### **Section 1. Short Title**

The Act is called the "Iran Nonproliferation Act of 1999."

## **Section 2. Reports on Proliferation to Iran**

The President is required to submit a bi-yearly report to the House International Relations and the Senate Foreign Relations Committees, based on credible information, identifying every foreign person who, on or after January 1, 1999, transferred to Iran goods, services, or technology listed on respective control lists or such items that could potentially be used to make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems.

The bill exempts those foreign persons who were identified in a previously submitted report, or ones who engaged in a transfer on behalf of, or in concert with, the U.S. Government. However, if there is credible information regarding any *additional* transfer by that same foreign person, the President is required to issue a report.

The credible information requirement is defined as "information that is sufficiently believable that a reasonable person would conclude that there is a substantial possibility that a foreign person may have transferred goods, services, or technology of the type" prohibited in this Act. The requirement is intended to be a very low evidentiary standard. The bill adopts this very low evidentiary standard (lower than a "preponderance of the evidence" standard) based on the Committee's concern with the manner in which other counter-proliferation laws have been applied, and in light of the fact that foreign persons identified in reports submitted pursuant to this section are not subject to mandatory sanctions.

## **Section 3. Application of Measures to Certain Foreign Persons**

The Act authorizes the President to apply to each foreign person identified in a report, for such period of time as he may determine, any or all of the following measures:

- Prohibiting the procurement of, or assistance to, that foreign person by the U.S. Government;
- Prohibiting sales of items on the U.S. Munitions List (as in effect on August 8, 1995), and terminating sales of defense articles, defense services, and design and construction services under the Arms Export Control Act to that person; and
- Denying licenses and suspending existing licenses for the transfer of items to that person, the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations.

## **Section 4. Procedures if Measures Are Not Applied**

If the President does not apply any or all of the measures authorized above with respect to a foreign person identified in the report, he shall notify the House International Relations and Senate Foreign Relations Committees, including a written justification supporting such decision.

## **Section 5. Determination for Exempting Foreign Persons from Sections 3 and 4**

This section provides a mechanism for exempting foreign persons from the procedures of Sections 3 and 4 when the President determines that certain facts have been established. Specifically, Sections 3 and 4 do not apply when the President determines and reports that:

- The foreign person either did not transfer to Iran, or did not knowingly transfer to Iran, the prohibited items;
- The prohibited items did not materially contribute to Iran's efforts to develop nuclear, biological, or chemical weapons, or ballistic or cruise missile systems;
- The foreign person made the transfer consistent with the guidelines and parameters of nonproliferation regimes; or
- The foreign person had meaningful penalties imposed upon him by his government.

## **Section 6. Restriction on Extraordinary Payments in Connection with the International Space Station**

The U.S. Government can only make payments to the Russian Space Agency when Russia is determined to be cooperating in preventing proliferation to Iran. For the President to make such payments, he must determine that:

- The Russian Federation Government's policy is to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;
- The Russian Federation Government has demonstrated and continues to demonstrate through concrete steps a sustained commitment to seek out and prevent the transfer to Iran of prohibited goods, including the imposition of meaningful penalties on persons who make such transfers; and
- Neither the Russian Space Agency, nor any organization under the jurisdiction or control of this Agency has, during the one-year period prior to the date of determination, made transfers to Iran.

This section is intended to give the Russian Space Agency more incentive than it has had in the past to seek to prevent transfers to Iran of sensitive goods, services, and technology from organizations and entities under the jurisdiction or control of that agency.

The House International Relations Committee in reporting the bill states its belief that there are at least three levels where the Russian Space Agency can act to prevent such transfers. For instance, the Space Agency:

- Has legal or operational authority over certain organizations and entities, whereby it can simply direct these entities to not proliferate to Iran.
- Has economic leverage over many organizations and entities, even if it does not have legal or operational authority over them. In its report, the House Committee on International Relations stated its hope that the Russian Space Agency's policy will become one where relations between that Agency and other organizations would be irreparably harmed if those entities proliferate to Iran.
- Can still play a role, even if neither of the above two cases are present by supporting the penalties placed on a person who proliferated to Iran by the Russian government. In such an instance, the bill ensures that the Agency does not suffer adverse consequences because of the actions of that person.

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### **POSSIBLE AMENDMENTS**

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There were no known amendments at press time.

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### **ADMINISTRATION POSITION**

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The day the House passed H.R. 1883, September 14, 1999, the Administration released a Statement of Administration Policy stating the following:

"The Administration strongly opposes H.R. 1883 . . . . H.R. 1883 would weaken the U.S. [sic] ability to persuade the international community to halt such transfers to Iran. Because the bill would undermine U.S. nonproliferation goals and objectives, the President's senior advisers would recommend that the President veto the bill, if it is presented to him in its current form."

## **COST**

The Congressional Budget Office estimates that preparing the reports would cost \$1 million to \$2 million per year, assuming the appropriation of the necessary funds.

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